

REMARKS

Claims 1-4, 6-8, 10-18, 34-39, 64-74, 76-84, 86-96, 98-106, 108-118, 120-128, and 130-132 were pending. Claims 64, 86, 108, 130, and 132 have been amended. Claims 83, 84, 105, 106, 127, and 128 have been canceled. Therefore, claims 1-4, 6-8, 10-18, 34-39, 64, 69-74, 76-82, 86, 91-96, 98-104, 108, 113-118, 120-126, and 130-132 will be pending upon entry of the instant amendment.

Claims 64, 86, 108, 130 and 132 have been amended to clarify the invention.

Applicants gratefully acknowledge the Examiner's withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 1-4, 6-8, 34-39, 75 and 84-132.

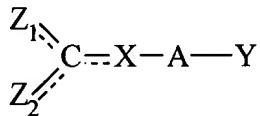
Rejection of Claims 64, 66, 68, 86-90, 108-112, 130 and 132 under 35 U.S.C. § 112, second paragraph

Claims 64, 66, 68, 86-90, 108-112, 130 and 132 were rejected under 35 U.S.C. § 112, second paragraph for reciting the limitation "mitochondrial cofactors, electron transport chain regulators" in claims 64, 86, 108, 130, and 132." Claims 64, 86, 108, 130 and 132 no longer recite the limitation "mitochondrial cofactors, electron transport chain regulators."

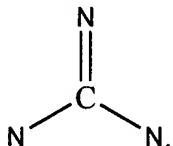
Therefore, Applicants request that this rejection of claims 64, 66, 68, 86-90, 108-112, 130 and 132 under 35 U.S.C. § 112, first paragraph be withdrawn.

Rejection of Claims 1-4, 6-8, 10-18, 34-39, 64-74, 76-84, 86-96, 98-106, 108-118, 120-128, and 130-132 under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 1-4, 6-8, 10-18, 34-39, 64-74, 76-84, 86-96, 98-106, 108-118, 120-128, and 130-132 under 35 U.S.C. § 112, first paragraph, because, according to the Examiner, Applicants' formula:



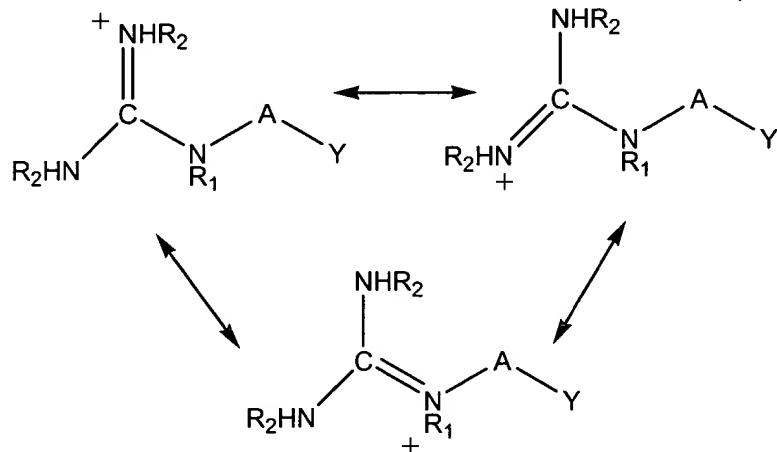
does not include a guanidino radical of the formula:



which the Examiner believes is "a basic component in creatine compounds."

Applicants disagree. One of ordinary skill in the art would understand that Applicants' formula includes the guanidino radical cited by the Examiner. In particular,

Z_1 and Z_2 may both be $-NHR_2$ and X may be NR_1 . One of ordinary skill in the art would understand that the dashed and solid lines are meant to illustrate the various resonance structures possible in Applicants' creatine compound. The resonance structures are illustrated below:



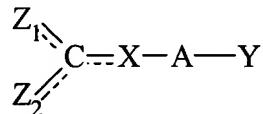
Applicants submit that an ordinarily skilled artisan at the time the invention was made would have understood resonance structure notation and would have been able to make and use Applicants' invention based on Applicants' disclosure. Furthermore, an ordinarily skilled artisan would have understood that Applicants' formula, in certain embodiments, contain the guanidino radical as required by the Examiner.

Therefore, Applicants respectfully request that this rejection of Applicants' claims under 35 U.S.C. § 112, first paragraph, be withdrawn.

Rejection of Claims 1-4, 6-8, 10-18, 34-39, 64-74, 76-84, 86-96, 98-106, 108-118, 120-128, and 130-132 under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1-4, 6-8, 10-18, 34-39, 64-74, 76-84, 86-96, 98-106, 108-118, 120-128, and 130-132 under 35 U.S.C. § 112, second paragraph, because, according to the Examiner, claims 1, 34, 64, 86, 108, 130, and 132 "fail to correspond in scope with that which applicant(s) regard as the invention."

In particular, the Examiner asserts that Applicants' formula



does not contain the guanidino radical which the Examiner believes is "necessary for creatine compounds."

Applicants disagree. As described above, Applicants' formula does include the guanidino radical which the Examiner believes is "necessary for creatine compounds." As described above, Applicants' formula is drawn with dashed and solid lines to convey to the ordinarily skilled artisan the various resonance forms of the radical, as described above.

Therefore, Applicants respectfully request that this rejection of Applicants' claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

Rejection of Claims 1-4, 6-8, and 10-18 under 35 U.S.C. § 112, first paragraph

Claims 1-8, 6-8, and 10-18 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner rejected the claims because they recite "increasing ATP production in a subject by administering an amount effective to increase ATP production. The claims are considered as being "reach through" claims which contain subject matter to be discovered in the future."

Applicants disagree. One of ordinary skill in the art would have been able to make and use Applicants' invention based on Applicants' disclosure. For example, in the specification, on page 36, line 24 through page 42, line 25, Applicant describes many different types of ATP enhancing agents. One of ordinary skill in the art at the time of Applicants' invention would have been able to use the Applicants specification and been able to perform Applicants' claimed methods, e.g., increase ATP production by administering to a subject an effective amount of a creatine compound and an ATP enhancing agent, such that the ATP production is increased, by using the disclosure therein.

Applicants respectfully submit that Applicants' claims are not reach through claims. Applicants discovered a method for increasing ATP production by administering an ATP enhancing agent, as defined in the specification, and a creatine compound. Therefore, Applicants claim a method for enhancing ATP production, as described above.

Therefore, Applicants request that this rejection of claims 1-5, 6-8 and 10-18 under 35 U.S.C. § 112, first paragraph be withdrawn.

Rejection of Claims 83, 84, 105, 106, 126, and 127 under 35 U.S.C. § 112, first paragraph

Claims 83, 84, 105, 106, 126, and 127 were rejected under 35 U.S.C. § 112, first paragraph for lacking enablement. Applicants submit that claims 83, 84, 105, 106, 126, and 127 are no longer pending, thus rendering this rejection moot.

Objection to Claim 117

Claim 117 was objected to as being dependent on a cancelled base claim. Applicants note that claim 117 is dependent on pending claim 108. Applicants request further clarification of this objection.

SUMMARY

Cancellation of and/or amendments to the claims should in no way be construed as an acquiescence to any of the Examiner's objections and/or rejections. The cancellation of/amendments to the claims are being made solely to expedite prosecution of the above-identified application. Applicants reserve the option to further prosecute the same or similar claims in the present or another patent application. The amendments made to the claims are not related to any issues of patentability.

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the Elizabeth A. Hanley, Esq. at (617) 227-7400.

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